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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,926	03/12/2001	Salvatore Melis	Q63447	7232

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,926

Applicant(s)

MELIS, SALVATORE

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-18, 20 and 24 is/are rejected.
- 7) ☒ Claim(s) 19 and 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

Claim Objections

1. Claims 14-24 are objected to because of the following informalities: the phrase "a selected gear ratios" in line 3 of claim 14 should be reworded, the phrases "the engine" and "the motor" in line 3 of claim 17 should be changed to --an engine-- and --a motor-- respectively. Appropriate correction is required. The remaining claims are objected to due to their dependency from claim 14.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14-18, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE-19913492 (DE'492) (using GB-2338768 as an English equivalent) in view of US Patent 6327927 to Rogg et al. and US Patent 1630076 to Schmidt.

Re: claims 14, 15, 20, and 24. DE'492 shows in figure 6 an operating unit for a servo-assisted operation of a motor-vehicle gearbox 603 having an operating mechanism 607 for selection and engagement, the combined movement of which brings about the engagement of a selected gear ratio of the gear box, the operating unit comprising remote manual gear shift means shown to the left of element 614 movable

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into a plurality of positions for engagement of a desired gear ratio, actuator means 606 associated with the gear box and operatively connected to the manual gearshift means for controlling the combined movement of the operating mechanism in response to the position of the remote manual gearshift means, transmission elements connecting the actuator means to the operating mechanism, sensor means 614 for detecting the instantaneous position of the remote manual gearshift means, and an electronic control unit 620 which is operatively interposed between the actuator means and the sensor means and is arranged to process signals coming from the sensor means and to send operating signals to the actuator means in order to bring about the movement of the transmission elements in a manner such that the transmission elements bring about the engagement of the selected gear ratio of the gear box corresponding to the instantaneous position of the remote manual gear shift means.

DE'492 describes at least one mechanical operating member for selection, but is silent as to the presence of a mechanical operating member for engagement. DE'492 is also silent with regards to transmission elements connecting the actuator means (remote from the gearbox) to the operating members being flexible elongate mechanical transmission elements.

Rogg et al. teach in col. 11 lines 28-37 the use of a pair of mechanical operating members for selection and engagement, respectively.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the operating mechanism of DE'492 to have included a pair of mechanical operating members which results in the incorporation of a

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mechanical operating member for engagement, as taught by Rogg et al., in order to provide a means of shifting the selected gear to control the movement of the motor vehicle.

Schmidt teaches in figure 1 the use of transmission elements connecting an actuator 11,12,17 (remote from the gearbox 22) to operating members 25,25 being flexible elongate mechanical transmission elements 19.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the actuator means-operating members arrangement of DE'492 to have included an actuator means remote from the gear box connected to operating members by flexible elongate mechanical transmission elements, as taught by Schmidt, in order to provide an equally effective means of transmitting motion to internal components of the gearbox (Examiner notes that Rogg et al. teach that an actuator can be designed to transmit motion directly or indirectly to components located outside of, extending in part into, or fully confined in the case of a gearbox. See col. 12 lines 2-5.)

Re: claim 16. DE'492, as modified, teach in figure 1 of Schmidt the limitation wherein the actuator means include shaft means 17 for controlling the movement of the elongate mechanical transmission elements.

Re: claim 17. DE'492, as modified, describe the invention substantially as set forth above, but is silent as to the location of the elements with respect to the engine compartment.

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Schmidt teaches in figure 1 the use of a remote manual gearshift means 6, a control unit 5,14, and the actuator means 11,12,17 being disposed in an environment separated from the engine compartment and the elongate mechanical transmission elements 19,19 being disposed predominantly in the engine compartment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of DE'492 to have included the gearshift means, the control unit, and the actuator means separated from the engine compartment, as taught by Schmidt, in order to provide easy operator access to the components and to protect the components from the higher temperatures in the engine compartment and to have include the transmission elements predominantly in the engine compartment, as taught by Schmidt, in order to reduce the amount of cables present in the passenger compartment to provide ample leg space for the vehicle operator.

Re: claim 18. DE'492, as modified, teach in figure 1 of Schmidt the limitation of the elongate mechanical transmission elements extend through a fireproof partition 20 interposed between the engine compartment and a passenger compartment of the motor vehicle, the actuator means being disposed in the vicinity of the fireproof partition within the passenger compartment.

Allowable Subject Matter

4. Claims 19 and 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant has changed the scope of claim 4 rewritten in independent form by eliminating some of the intervening limitations. The amendment necessitated the new grounds of rejection.

Conclusion

6. In order to complete the record, it should be noted that no conflict appears to presently exist between the subject matter defined by the instant claims and the subject matter of the claims of applicant's and/or assignee's US Patent 6809487 to Mourad et al. has been made of record. Accordingly, no double patenting rejection is entered into the instant application. See MPEP 804+ concerning double patenting type of rejections, if necessary. Applicant and/or assignee should maintain this clear line of patentable distinction between the instant claims and the claims of the indicated patent application.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6809487 to Mourad et al. teaches the use of an operating unit for servo-assisted operation of a gearbox having actuator means, an electronic control unit, remote gearshift sensor means, and flexible elongate mechanical

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transmission elements connecting the actuator means to operating members on the gearbox, but does not have a useable date. US Patent 6834562 to Esly et al. teach the use of an operating unit for servo-assisted operation of a gearbox having actuator means, an electronic control unit, and remote manual gearshift sensor means, but does not show the actuator means being remote from the gear box or the limitation of the flexible transmission elements and does not have a useful date.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 14, 2005

4/14/05

Robert A. Siconolfi 4/14/05
ROBERT A. SICONOLFI
PATENT EXAMINER